

**IN THE MISSOURI COURT OF APPEALS
WESTERN DISTRICT**

COMPLETE TITLE OF CASE

GREGORY F. YATES,

Appellant,

v.

PROGRESSIVE PREFERRED INSURANCE COMPANY,

Respondent.

DOCKET NUMBER WD71859

**MISSOURI COURT OF APPEALS
WESTERN DISTRICT**

DATE: February 1, 2011

APPEAL FROM

The Circuit Court of Randolph County, Missouri
The Honorable Scott A. Hayes, Judge

APPELLATE JUDGES

Division Two: Joseph M. Ellis, Presiding Judge, and Alok Ahuja and Karen
King Mitchell, Judges

ATTORNEYS

Rex V. Gump and Christian L. Faiella
Moberly, MO

Attorneys for Appellant,

Joy I. Ahern
Columbia, MO

Attorney for Respondent.



MISSOURI APPELLATE COURT OPINION SUMMARY MISSOURI COURT OF APPEALS, WESTERN DISTRICT

GREGORY F. YATES,)
)
Appellant,)
v.)
)
PROGRESSIVE PREFERRED)
INSURANCE COMPANY,)
)
Respondent.)

WD71859

Randolph County

Before Division Two Judges:

Joseph M. Ellis, Presiding Judge, and
Alok Ahuja and Karen King Mitchell, Judges

Gregory F. Yates appeals the Circuit Court of Randolph County, Missouri's ("trial court") grant of summary judgment in favor of Progressive Preferred Insurance Company ("Progressive"). The trial court held that a named driver exclusion in a policy of liability insurance issued by Progressive barred Yates's recovery on his petition for equitable garnishment. On appeal, Yates contends that the judgment was erroneous because Roberta Pechey, who was driving the car that hit Yates, had not signed the named driver exclusion, rendering it ambiguous; because named driver exclusions cannot waive liability coverage for a named insured without violating state omnibus insuring requirements; and because named driver exclusions are against public policy to the extent that they exempt liability up to the statutory limits.

AFFIRMED.

Division Two holds:

Progressive has raised meritorious procedural objections to Yates's first two points on appeal, and they are affirmed by separate memorandum furnished to the parties pursuant to Rule 84.16(b).

The Missouri Supreme Court has found that named driver exclusions such as the one contained in the Progressive policy at issue in this case are void as against public policy to the extent that they exclude coverage up to the statutory limits of the Motor Vehicle Financial Responsibility Law (“MVFRL”). Subsequent to the case so holding, however, the legislature has amended the law specifically to allow for named driver exclusions in auto policies. Because the law already allowed an insurance policy to exclude a specific named driver from coverage in excess of the statutory limits, we hold that the amendment to the MVFRL can only properly be construed as allowing a policy to exclude all liability coverage for a specific named excluded driver. We do not find that this construction violates the public policy behind the MVFRL, as amended.

Opinion by: Karen King Mitchell, Judge

February 1, 2011

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